

### **Remarks**

By the present amendment, Claims 1-12 remain pending. Claims 13-41 were withdrawn from consideration by earlier response to a restriction requirement. Claims 1 and 11 have been amended by the present response. The present amendment amends independent claim 1 to clarify that the claimed invention can include “at least one display comprising selectable items for a consumer to identify via the display a physically tangible product for purchase” (Underlining supplied). In addition, independent claim 1 has been amended to clarify that the claimed invention can include “at least one sensor operable to detect the consumer’s presence in proximity to the product container, wherein the at least one display is operable to output content based at least in part on the consumer’s presence” (Underlining supplied). The cited references neither disclose or suggest the amended elements of at least independent claim 1. In addition, dependent claim 11 has been amended to clarify the scope of the claimed invention. Reconsideration of the amended claims and application is respectfully requested in view of the remarks below.

### **Claim Rejections Under 35 U.S.C. § 102**

In the non-final Office Action, independent claims 1-2, 5-7 and 10-12 were rejected under 35 U.S.C. §102(e) as being anticipated by Abell, U.S. Patent Publication No. 2003/0172028 (“*Abell*”). Independent claim 1 has been amended to clarify that the claimed invention can include “at least one display comprising selectable items for a consumer to identify via the display a physically tangible product for purchase” (Underlining supplied). In addition, independent claim 1 has been amended to clarify that the claimed invention can include “at least one sensor operable to detect the consumer’s presence in proximity to the product container, wherein the at least one display is operable to output content based at least in part on the consumer’s presence” (Underlining supplied). The amendment is supported by the Applicants’ specification in at least, for example, Paragraph [0045] as follows: “As shown in FIG. 2, the AIPC 200 includes at least one display 205, which may be a touch-sensitive display screen, such as an LCF or TFT display as are well known in the art. Therefore, the display 205 may also act as an input device for receiving input from a consumer interacting with the AIPC 200, including

responding to questions, selecting items (e.g., instant prizes or free or purchasable items), and selecting one or more products for dispensing. The display 205 may also be used to receive input from an operator during stocking or maintenance of the AIPC 200. The AIPC 200 illustrated in FIG. 2 may also includes a product dispenser 265, which may dispense products identified by a consumer using the display 205 or one or more product selectors 260.” Furthermore, the amendment is supported by the Applicants’ specification in at least, for example, Paragraph [0060] as follows: “After the sensor 230 detects the presence of an individual (block 405), the ICA 335 operates to place the AIPC into an attract mode (block 410), in which the AIPC invites consumers to interact with the AIPC and previews activation benefits. According to one aspect of the invention, the attract mode (block 410) may include a sequence of media content introduced by a virtual host displayed on the display 205.”

The cited references, *Abell* and *Pons*, neither disclose or suggest the amended elements, “at least one display comprising selectable items for a consumer to manually identify a physically tangible product for purchase” or “at least one sensor operable to detect the consumer’s presence in proximity to the product container, wherein the at least one display is operable to output content based at least in part on the consumer’s presence”. In contrast, *Abell* relates to a wireless enabled device, such as a terminal 209 or Bluetooth enabled terminal (Paragraph [0036]), in communication with a network 205. *Abell* does not relate to the use of any sensor or output of content based at least in part on the consumer’s presence. Instead, in the example of Paragraph [0041] of *Abell*, a customer could be next to a vending machine 709, but must place a call to a 1-800 number on the vending machine before the vending machine detects the presence of the customer. Therefore, *Abell* neither discloses or suggests the element, “at least one display comprising selectable items for a consumer to identify via the display a physically tangible product for purchase” or “at least one sensor operable to detect the consumer’s presence in proximity to the product container, wherein the at least one display is operable to output content based at least in part on the consumer’s presence” (Underlining supplied).

Furthermore, *Pons* relates to a tokenless vending machine 10 with a keypad 28 and a display 34. However, *Pons* relates to a entering a key and/or information via the keypad 28 rather than the display 34. See Paragraph [0025]. Thus, the display 34 in *Pons* is not a user

input-type device. Similar to *Abell*, *Pons* does not relate to the use of any sensor or output of content based at least in part on the consumer's presence. Instead, *Pons* relates to the use of a customer input on the keypad 28 before the vending machine 10 detects the presence of the customer. See Paragraph [0025]. Therefore, *Pons* neither discloses or suggests the element, "at least one display comprising selectable items for a consumer to identify via the display a physically tangible product for purchase" or "at least one sensor operable to detect the consumer's presence in proximity to the product container, wherein the at least one display is operable to output content based at least in part on the consumer's presence" (Underlining supplied).

Claims 2, 5-7 and 10-12 are ultimately dependent from claim 1, for which arguments of patentability have been provided above. If independent claim 1 is in condition for allowance, then dependent claims 2, 5-7 and 10-12 should also be in condition for allowance.

#### **Claim Rejections Under 35 U.S.C. § 103**

Claims 3 and 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Abell* in view of Herzog, U.S. Patent Publication No. 2005/0189364 ("*Herzog*"), and claims 8 and 9 were rejected as being unpatentable over *Abell* in view of *Pons*, U.S. Patent Publication No. 2002/0099608 ("*Pons*").

Claims 3 and 4 are ultimately dependent from claim 1, for which arguments of patentability have been provided above. If independent claim 1 is in condition for allowance, then dependent claims 3 and 4 should also be in condition for allowance.

#### **Claim Rejections Under 35 U.S.C. § 112**

Claims 1 and 2 were rejected under 35 U.S.C. §112 as not particularly pointing and distinctly claiming the subject matter which the applicant regards as his invention. Claim 1 was rejected for insufficient antecedent basis for this limitation in the claim. Claims 2-12, being dependent on claim 1, thus acquire the deficiencies as set forth in claim 1. Claim 1 has been amended to clarify the antecedent basis of "vicinity", and this rejection is believed to be traversed.

**CONCLUSION**

It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,



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